

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: ELECTRIC FRANCHISE AND RELATED RULES	DOCKET NO. RMU-02-11
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ORDER ADOPTING RULES

(Issued April 24, 2003)

Pursuant to the authority of Iowa Code §§ 17A.4, 476.1, 476.1A, 476.1B, and chapter 478, the Utilities Board (Board) adopts the rules attached hereto and incorporated by reference. These rules amend 199 IAC chapters 11 and 25. The amendments are in response to Executive Orders 8 and 9 and recent amendments to Iowa Code § 476.13. House File 2341 amended Iowa Code § 478.13 to provide that electric line franchise extension applications are to be less extensive than original applications and proceedings. Prior to passage of the amendment, Iowa Code chapter 478 did not differentiate between original franchise and franchise extension proceedings.

Comments in this proceeding were received from the Consumer Advocate Division of the Department of Justice, the Iowa Association of Municipal Utilities (IAMU), the Iowa Association of Electric Cooperatives (IAEC), MidAmerican Energy Company (MidAmerican), and Interstate Power and Light Company. The comments

to the proposed rules were generally favorable, although some suggestions for specific changes were made.

As recommended by the IAEC, the Board added a reference to Iowa Code § 478.18(1) in subrule 11.1(1). References to the routing standards contained in Iowa Code § 478.20 have been added to subrule 11.1(7) in response to comments from MidAmerican. However, the Board is not adopting MidAmerican's proposal to change "electric company" to "electric utility" because the franchise rules are applicable to entities other than traditional electric utilities.

Rule 11.2 has been reformatted but the basic substance of the rule remains unchanged. Subparagraph 11.2(1)"b"(6) has been clarified to make it clear that lines on the maps must be specifically identified as overhead or underground. Also, in response to the comments, some of the filing requirements have been modified so that they are even less burdensome for a franchise extension. The Board has also clarified that franchise amendments are not required for a voltage increase, additional circuit, or electric line relocation where such activity takes place entirely within the boundaries of property owned by an electric company or an end user.

Paragraph 11.5(2)"c" has been amended to strike the reference to adjacent to right-of-way. This corrects a discrepancy with subrule 11.6(1) pointed out by MidAmerican. Subrule 25.2(4) has been rewritten but retains certain requirements for electrical conductor sizing and capacity that are not reflected in other safety standards adopted by reference by the Board. Other minor changes have been made, but the rules adopted are substantially the same as the noticed rules.

IT IS THEREFORE ORDERED:

1. A rule making proceeding, identified as Docket No. RMU-02-11, is adopted.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 24th day of April, 2003.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4 and 476.1, and Iowa Code sections 476.1A, and 476.1B and chapter 478 as amended by 2001 Iowa Acts, First Extraordinary Session, chapter 4, the Utilities Board (Board) gives notice that on April 24, 2003, the Board issued an order in Docket No. RMU-02-11, In re: Electric Franchise and Related Rules, “Order Adopting Rules.” The Board is adopting revisions to 199 IAC 11 and 25 in response to Governor Vilsack’s Executive Orders 8 and 9 and 2002 Iowa Acts, House File 2341. House File 2341 amended Iowa Code section 478.13 to provide that electric line franchise extension applications are to be less extensive than original applications and proceedings. Prior to passage of the amendment, Iowa Code chapter 478 did not differentiate between original franchise and franchise extension proceedings.

On November 22, 2002, the Board issued an order in Docket No. RMU-02-11 to consider the amendments. Notice of Intended Action for the proposed rule making was published in IAB Vol. XXV, No. 12 (12/11/02), p. 885, ARC 2173B. The Consumer Advocate Division of the Department of Justice, the Iowa Association of Municipal Utilities, the Iowa Association of Electric Cooperatives, MidAmerican Energy Company, and Interstate Power and Light Company filed written comments or statements. An oral presentation was held on February 14, 2003. All those who made written filings participated.

The Board will not detail here the reasons for adopting the rules because those reasons have been delineated in the “Order Commencing Rule Making” issued November 22, 2002, and the “Order Adopting Rules” issued April 24, 2003. Those orders are available at the Board’s Web site, <http://www.state.ia.us/iub>. The orders are also available in hard copy for review or purchase at the Board’s Records Center, 350 Maple Street, Des Moines, Iowa 50319-0069; telephone (515)281-6240.

The changes to the noticed rules are in response to the comments or are minor, such that the Board believes no additional notice is required. There is no specific waiver provision in the adopted rules because the Board’s general waiver rule 199 IAC 1.3, is applicable to these rules.

These amendments are intended to implement Iowa Code section 476.1 and sections 476.1A and 476.1B and chapter 478 as amended by 2001 Iowa Acts, First Extraordinary Session, chapter 4, and will become effective June 18, 2003.

The following amendments are adopted.

Item 1. Rescind rule 199—11.1(478) and adopt the following **new** rule in lieu thereof.

199—11.1(478) General information.

11.1(1) Authority. The standards pertaining to electric transmission lines in this chapter are prescribed by the Iowa utilities board pursuant to Iowa Code sections 478.18(1), 478.19 and 478.20. This chapter shall apply to any individual, company, corporation, or city engaged in the construction, operation,

and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478.

11.1(2) Purpose. The purpose of this chapter is to establish standards for electric franchise proceedings before the Iowa utilities board.

11.1(3) Iowa electrical safety code. Overhead and underground electric supply line minimum requirements to be applied in installation, operation, and maintenance are found in 199—Chapter 25, Iowa electrical safety code.

11.1(4) Date of filing. A petition for franchise shall be considered filed with the board on the date of the United States Postal Service postmark if the filing is made by mail, or on the date received at the board's records center if the filing is made in person or sent other than by United States mail.

11.1(5) Franchise—*when required*. An electric franchise shall be required for the construction, operation, and maintenance of any electric line which is capable of operating at 69,000 volts or more outside of cities, except that a franchise is not required for electric lines located entirely within the boundaries of property owned by an electric company or an end user.

11.1(6) Definitions. For the administration and interpretation of this chapter, the following words and terms, when used in these rules, shall have the meaning indicated below:

"Board" means the utilities board within the utilities division of the department of commerce.

"Capable of operating" shall mean the standard voltage rating at which the line, wire, or cable can be operated consistent with the level of the insulators and

the conductors used in construction of the line, wire, or cable based on manufacturer's specifications, industry practice, and applicable industry standards.

11.1(7) Route selection. The planning for a route that is the subject of a petition for franchise must begin with routes that are near and parallel to roads, railroad rights-of-way, or division lines of land, according to the government survey, consistent with the provisions of Iowa Code section 478.18(2). When a route near and parallel to these features has points where electric line construction is not practicable and reasonable, deviations may be proposed at those points, when accompanied by a proper evidentiary showing, generally of engineering reasons, that the initial route or routes examined did not meet the practicable and reasonable standard. Although deviations based on landowner preference or minimizing interference with land use may be permissible, the petitioner must be able to demonstrate that route planning began with a route or routes near and parallel to roads, railroad rights-of-way, or division lines of land.

Further, no transmission line shall be constructed outside of cities, except by agreement, within one hundred feet of any dwelling house or other building, except where such line crosses or passes along a public highway or is located alongside or parallel with the right of way of any railroad company, consistent with the provisions of Iowa Code section 478.20.

Item 2. Rescind existing rule 199—11.2(478) and adopt the following new rule in lieu thereof:

199—11.2(478) Forms of petition for franchise, extension, or amendment of franchise.

11.2(1) *Forms of petition for a new or amended franchise.* A petition for a new or amended franchise filed with the board shall be made in the following manner. A petition shall be made on forms prescribed by the board, shall be notarized, and shall have attached all required exhibits. Exhibits in addition to those required by this rule may be attached when appropriate.

a. Exhibit A. A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning and ending points of the line, and whether the route is on public, private, or railroad right-of-way. In the case of the multicounty projects, the description shall identify all counties involved in the total project and any termini located in other counties.

b. Exhibit B. A map showing the route of the line drawn with reasonable accuracy considering the scale. Two copies shall be submitted. The map may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile. The following minimum information shall be provided:

(1) The route of the electric line which is the subject of the petition, including starting and end points and, when paralleling a road or railroad, which side it is on. Line sections with double circuit construction or underbuild shall be designated.

(2) The name of the county, county and section lines, section numbers, and the township and range numbers.

(3) The location and identity of roads, major streams and bodies of water, and any other pertinent natural or man-made features influencing the route.

(4) The name and corporate limits of cities.

(5) The name and boundaries of any public lands or parks, recreational areas, preserves or wildlife refuges.

(6) All electric supply lines, including petitioner's, within six-tenths of a mile of the route, including the nominal voltage and whether overhead or buried, and the name and address of the owners. Any lines to be removed or relocated shall be designated.

(7) The location of railroad rights-of-way, including the name and address of the owners.

(8) The location of airports or landing strips within one mile of the route, along with the name and address of the owners.

(9) The location of pipelines used for the transportation of any solid, liquid, or gaseous substance, except water, within six-tenths of a mile of the route, along with the name and address of the owners.

(10) The name and address of the owners of telephone, communication, or cable television lines within six-tenths of a mile of the route. The location of these lines need not be shown.

(11) The name and address of the owners of rural water districts organized pursuant to Iowa Code chapter 357A with facilities within six-tenths of a mile of the route. The location of these facilities need not be shown.

c. Exhibit C. Technical information and engineering specifications describing typical materials, equipment and assembly methods as specified on forms provided by the board.

d. Exhibit D. The exhibit shall consist of a written text containing the following:

(1) An allegation, with supporting testimony, that the line is necessary to serve a public use, plus such additional substantiated allegations as may be required by Iowa Code section 478.3(2).

(2) If the route or any portion thereof is not near and parallel to railroad right-of-way or along division lines of the lands, according to government surveys, a showing of why such parallel routing is not practicable or reasonable.

(3) If the route and manner of construction result in separate pole lines for two or more electric supply lines occupying or adjacent to the same road right-of-way in a manner not in compliance with 199 IAC 11.6(1), a request that the board authorize separate pole lines and justification for the authorization.

(4) Any other information or explanations in support of the petition.

(5) If a new franchise must be sought for an existing electric line, historical information as specified in 199 IAC 11.2(2)"d"(1) to (4).

e. Exhibit E. This exhibit is required only if the petition requests the right of eminent domain. This exhibit shall be in its final form prior to issuance of the form of notice by the board pursuant to 199 IAC 11.5(2)"a." It shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought, and for each property:

- (1) The legal description of the property.
- (2) The legal description of the desired easement.
- (3) A specific description of the easement rights being sought.
- (4) The names and addresses of all persons with an ownership interest in the property, and tenants.
- (5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of all electric lines and supports within the proposed easement, the location of and distance to any building within 100 feet of the proposed electric line, and any other features pertinent to the location of the line and its supports or to the rights being sought.

f. Exhibit F. The showing of notice to potentially affected parties as required by 199 IAC 11.5(4).

g. Exhibit G. The affidavit required by Iowa Code section 478.3 on the holding of an informational meeting. Copies of the mailed notice letter and the published notice(s) of the informational meeting shall be attached to the affidavit. This exhibit is required only if an informational meeting was conducted.

11.2(2) *Form of petition for extension of franchise.* A petition for an extension of franchise action by the board shall be made in the following manner. A petition shall be made on forms prescribed by the board, shall be notarized, and shall have attached all required exhibits. Exhibits in addition to those required by this rule may be attached when appropriate.

a. Exhibit A. A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning and ending points of the line, and whether the route is on public, private, or railroad right-of-way. The description shall identify any termini located in other counties.

b. Exhibit B. A map showing the route of the line drawn with reasonable accuracy considering the scale. Two copies shall be submitted. The map may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile. The following minimum information shall be provided:

(1) The route of the electric line which is the subject of the petition, including starting and end points and, when paralleling a road or railroad, which side it is on. Line sections with double circuit construction or underbuild shall be designated. The nominal voltage and ownership of other circuits or underbuild shall be indicated.

(2) The name of the county, county and section lines, section numbers, and the township and range numbers.

(3) The location and identity of roads, railroads, major streams and bodies of water, and any other significant natural or man-made features or landmarks.

(4) The name and corporate limits of cities.

c. Exhibit C. Technical information and engineering specifications describing typical materials, equipment and assembly methods as specified on forms provided by the board.

d. Exhibit D. The exhibit shall consist of a written text containing the following:

(1) A listing of all existing franchises for which extension in whole or in part is sought, including the docket number, franchise number, date of issue, county of location, and to whom granted.

(2) A listing of all amendments to the franchises listed in "a," including the docket number, amendment number, date of issue, and the purpose of the amendment.

(3) A description of any substantial rebuilds, reconstructions, alterations, relocations, or changes in operation not included in a prior franchise or amendment action.

(4) A description of any changes in ownership or operating and maintenance responsibility.

(5) An allegation, with supporting testimony, that the line remains necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.

(6) Any other information or explanations in support of the petition.

Item 3. Amend paragraph 11.3(2)"a" as follows:

a. A petition for franchise shall be filed with the board for the construction of any electric line outside of a city which is capable of operating at a nominal voltage of 69 kilovolts or more, except that a franchise is not required for electric lines located entirely within the boundaries of property owned by an electric company or an end user.

Item 4. Amend subrule 11.3(2)"c" by adding **new** paragraph (4):

(4) An amendment to franchise shall not be required for a voltage increase, additional circuit, or electric line relocation where such activity takes place entirely within the boundaries of property owned by an electric company or an end user.

Item 5. Amend paragraph 11.5(2)"a" as follows:

a. Whenever a petition for a franchise, extension of franchise, or amendment of franchise is filed with the board, the board shall prepare a notice addressed to the citizens of each county through which the line or lines extend. The petitioner shall cause this notice to be published in a newspaper located in each county for two consecutive weeks. Proof of publication ~~and proof of payment of publication costs~~ shall be filed with the board. This published notice shall constitute sufficient notice to all parties of the proceeding, except owners of record and parties in possession of land to be crossed for which voluntary easements have not been obtained at the time of the first publication of the notice.

Item 6. Amend paragraph 11.5(2)"c" as follows:

c. If the route and manner of construction would result in separate pole lines for two or more electric supply lines occupying ~~or adjacent to~~ the same road right-of-way in a manner not in compliance with 199 IAC 11.6(1), a request that the board authorize separate pole lines and justification for the authorization.

Item 7. Amend subrule 11.5(4) as follows:

11.5(4) Notice to other parties. Petitioners for a franchise, ~~extension of franchise,~~ or amendment to franchise shall give written notice by ordinary mail, mailed at the time the petition is filed with the board, accompanied by a map

showing the route of the proposed electric supply line, to the affected parties described in 11.2(3)"e""f" through "j""k" and the Iowa department of transportation. One copy of each letter of notification or one copy of the letter accompanied by a written statement listing all parties to which it was mailed, ~~and~~ the date of mailing, and a copy of the map sent with the letters shall accompany the petition when it is filed with the board.

Item 8. Amend subrule 11.5(5) by adding **new** paragraph "c" as follows:

c. If the facilities authorized by a franchise are not constructed in whole or in part within two years of the date the franchise is granted, or within two years after final unappealable disposition of judicial review of a franchise order or of condemnation proceedings, the franchise shall be forfeited unless the franchise holder petitions the board for an extension of time pursuant to Iowa Code section 478.21.

Item 9. Rescind and reserve subrule 11.5(6).

Item 10. Amend subrule 11.6(1) as follows:

11.6(1) *Common use construction.* Whenever an overhead electric line capable of operating at ~~34.5~~ 69 kilovolts or more is built or rebuilt on public road rights-of-way located outside of cities, all parallel overhead electric supply circuits on the same road right-of-way shall be attached to the same or common line of structures unless the board authorizes, for good cause shown, the construction of separate pole lines.

Item 11. Rescind and reserve subrule 11.6(2).

Item 12. Adopt the following **new** rule:

199—11.8(478) Fees and expenses. The petitioner shall pay the actual unrecovered cost incurred by the board attributable to the processing, investigation, and inspection related to a petition requesting an electric franchise.

Item 13. Rescind rule 25.1(476, 476A, 478) and adopt the following **new** rule in lieu thereof:

199—25.1(476,476A,478) General information.

25.1(1) Authority. The standards relating to electric and communication facilities in this chapter are prescribed by the Iowa utilities board pursuant to Iowa Code sections 476.1, 476.1B, 476.2, 476A.12, 478.19, and 478.20.

25.1(2) Purpose. The purpose of this chapter is to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities. The rules apply to electric and communication utility facilities located in the state of Iowa and shall supersede all conflicting rules of any such utility. This rule shall in no way relieve any utility from any of its duties under the laws of this state.

Item 14. Amend subrules 25.2(2) and 25.2(3) as follows:

25.2(2) Modifications and qualifications to ANSI C2. The standards set forth in ANSI C2 are modified or qualified as follows:

a. Introduction to the National Electrical Safety Code.

(1) The following paragraph is added to NESC 011 ~~replaces NESC 011B~~:

"The National Electrical Safety Code (NESC) covers utility facilities and functions from the point of generation by the utility, or delivery from another entity, of

electricity or communications signals through the utility system to the point of delivery to a customer's facilities."

(2) NESC 013A2 is modified to read as follows: "Types of construction and methods of installation other than those specified in the rules may be used experimentally to obtain information, if done where: ~~qualified supervision is provided and prior approval is obtained from the board.~~

- a. Qualified supervision is provided,
 - b. Equivalent safety is provided,
 - c. On joint-use facilities, all affected parties agree, and
 - d. Prior approval is obtained from the Iowa utilities board "
- b. Minimum clearances.

(1) In any instance where minimum clearances are provided in Iowa Code chapter 478 which are greater than otherwise required by these rules, the statutory clearances shall prevail.

(2) The following clearances shall apply to all lines regardless of date of construction: NESC 232, vertical clearances for "Water areas not suitable for sailboating or where sailboating is prohibited," "Water areas suitable for sailboating. . .," and ~~"Public or private land and water areas posted for rigging and launching sailboats~~ Established boat ramps and associated rigging areas . . ."; and NESC 234E, "Clearance of Wires, Conductors, ~~or~~ Cables or Unguarded Rigid Live Parts Installed Over or Near Swimming Areas With No Wind Displacement."

(3) Table 232-1, Footnote ~~19~~ 21, is changed to read: "Where the U.S. Army Corps of Engineers or the state, or a surrogate thereof, issues a crossing permit, the clearances of that permit shall govern if equal to or greater than those required herein. Where the permit clearances are less than those required herein and water surface use restrictions on vessel heights are enforced, the permit clearances may be used."

(4) Except for clearances near grain bins, for measurements made under field conditions, the board will consider compliance with the overhead vertical line clearance requirements of Subsection 232 and Table 232-1 of the 1987 NESC indicative of compliance with the ~~1997~~ 1990 through 2002 editions of the NESC. (For an explanation of the differences between 1987 and subsequent code edition clearances, see Appendix A of the ~~1997~~ 1990 through 2002 editions of the NESC.)

c. Reserved.

d. Rule 264E.1 is changed to read:

"The ground end of anchor guys exposed to pedestrian or vehicle traffic shall be provided with a substantial marker not less than eight feet long. The guy marker shall be of a conspicuous color such as yellow, orange, or red. Green, white, gray or galvanized steel colors are not reliably conspicuous against plant growth, snow, or other surroundings. Noncomplying guy markers shall be replaced as part of the utility's inspection and maintenance plan."

e. There is added to Rule 381G:

(3) Pad-mounted and other aboveground equipment not located within a fenced or otherwise protected area shall have affixed to its outside access door or cover a prominent " ~~Caution~~" Warning or other appropriate ~~warning~~ sign of highly visible color, warning of hazardous voltage and including the name of the utility. ~~These signs shall be in place on or before December 31, 1992.~~ This rule shall apply to all signs placed or replaced after (insert effective date of revised rule).

f. There is added to the first paragraph of Rule 110.A.1, after the sentence stating, "Entrances not under observation of an authorized attendant shall be kept locked," the following sentence:

Entrances may be unlocked while authorized personnel are inside. However, if unlocked, the entrance gate must be fully closed and must also be latched or fastened if there is a gate-latching mechanism.

25.2(3) Grain bins.

a. ~~Utilities~~ Electric utilities shall conduct annual public information campaigns to inform farmers, farm lenders, grain bin merchants, and city and county zoning officials of the hazards of and standards for construction of grain bins near power lines.

b. An electric utility may refuse to provide electric service to any grain bin built near an existing electric line which does not provide the clearances required by The American National Standards Institute (ANSI) ~~C2-1997~~ 2002 "National Electrical Safety Code," Rule 234F. This paragraph "b" shall apply only to grain bins loaded by portable augers, conveyors or elevators and built after

September 9, 1992, or to grain bins loaded by permanently installed augers, conveyors, or elevator systems installed after December 24, 1997.

Item 15. Rescind existing subrule 25.2(4) and adopt the following new subrule in lieu thereof:

25.2(4) General rules

a. Joint use construction. Where it is mutually agreeable between the electric supply company and the communication or cable television company, communication circuits or cables may be buried in the same trench or attached to the same supporting structure, provided this joint use is permitted by, and is constructed in compliance with, the Iowa electrical safety code.

b. Lines. In order to limit the residual currents and voltages arising from line unbalances, the resistance, inductance, capacitance and leakage conductance of each phase conductor of an electric supply circuit in any section shall be as nearly equal as practical to the corresponding quantities in the other phase conductors in the same section.

The ampacity of a multigrounded neutral conductor of an electric supply circuit shall be adequate for the load which it is required to carry. The ampacity of a multigrounded neutral conductor of an electric supply circuit shall not be less than 60 percent of that of any phase conductor with which it is associated, except for three phase four wire wye circuits where it shall have ampacity not less than 50 percent of that of any associated phase conductor. In no case shall the resistance of a multigrounded neutral conductor exceed 3.6 ohms per mile. (This does not modify the mechanical strength requirements for conductors.) A

multigrounded conductor installed and utilized primarily for lightning shielding of the associated phase conductors need not comply with the above percentage ampacity requirements for neutral conductors.

Where the neutral conductor of the electrical supply circuit is not multigrounded or in an inductive exposure involving communication or signal circuits and equipment where the controlling frequencies are 360 Hertz or lower, any neutral conductor shall have the same ampacity as the phase conductors with which it is associated.

Item 16. Amend the first sentence of rule 25.5(476,478) as follows:

199—25.5(476,478) Accident reports. A An electric utility shall file with the board a written report on any accident to an employee or other person involving contact with its energized electrical supply facilities which results in a fatality, admission to a hospital, \$10,000 in damages to the property of the utility and others, or any other accident considered significant by the utility.

April 24, 2003

/s/ Diane Munns
Diane Munns
Chairman